



Reprinted
January 29, 2008

SENATE BILL No. 93

DIGEST OF SB 93 (Updated January 28, 2008 4:46 pm - DI 92)

Citations Affected: IC 8-1.

Synopsis: Excludes from the definition of "public utility" a landlord who distributes water or sewage disposal service from a public utility or a municipally owned utility to a dwelling unit and bills tenants for such distribution and related administrative costs separately from rent.

Effective: July 1, 2008.

Riegsecker, Hershman

January 8, 2008, read first time and referred to Committee on Rules and Legislative Procedure.

January 14, 2008, amended; reassigned to Committee on Utilities and Regulatory Affairs.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, amended, ordered engrossed.

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SB 93—LS 6083/DI 13+



Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 93

A BILL FOR AN ACT to amend the Indiana Code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-2-1, AS AMENDED BY P.L.27-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 1. (a) Except as provided in **subsection (j) and**
4 section 1.1 of this chapter, "public utility", as used in this chapter,
5 means every corporation, company, partnership, limited liability
6 company, individual, association of individuals, their lessees, trustees,
7 or receivers appointed by a court, that may own, operate, manage, or
8 control any plant or equipment within the state for the:
9 (1) conveyance of telegraph or telephone messages;
10 (2) production, transmission, delivery, or furnishing of heat, light,
11 water, or power; or
12 (3) collection, treatment, purification, and disposal in a sanitary
13 manner of liquid and solid waste, sewage, night soil, and
14 industrial waste.
15 The term does not include a municipality that may acquire, own, or
16 operate any of the foregoing facilities.
17 (b) "Municipal council", as used in this chapter, means the

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legislative body of any town or city in Indiana wherein the property of the public utility or any part thereof is located.

(c) "Municipality", as used in this chapter, means any city or town of Indiana.

(d) "Rate", as used in this chapter, means every individual or joint rate, fare, toll, charge, rental, or other compensation of any utility or any two (2) or more such individual or joint rates, fares, tolls, charges, rentals, or other compensation of any utility or any schedule or tariff thereof, but nothing in this subsection shall give the commission any control, jurisdiction, or authority over the rate charged by a municipally owned utility except as in this chapter expressly provided.

(e) "Service" is used in this chapter in its broadest and most inclusive sense and includes not only the use or accommodation afforded consumers or patrons but also any product or commodity furnished by any public or other utility and the plant, equipment, apparatus, appliances, property, and facility employed by any public or other utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public or other utility is engaged and to the use and accommodation of the public.

(f) "Commission", as used in this chapter, means the commission created by IC 8-1-1-2.

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

- (1) the conveyance of telegraph and telephone messages;
- (2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or
- (3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

(h) "Municipally owned utility", as used in this chapter, includes every utility owned or operated by a municipality.

(i) "Indeterminate permit", as used in this chapter, means every grant, directly or indirectly from the state, to any corporation, company, partnership, limited liability company, individual, association of

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1 individuals, their lessees, trustees, or receivers appointed by a court, of
 2 power, right, or privilege to own, operate, manage, or control any plant
 3 or equipment, or any part of a plant or equipment, within this state, for
 4 the:

5 (1) production, transmission, delivery, or furnishing of heat, light,
 6 water, or power, either directly or indirectly to or for the public;

7 (2) collection, treatment, purification, and disposal in a sanitary
 8 manner of liquid and solid waste, sewage, night soil, and
 9 industrial waste; or

10 (3) furnishing of facilities for the transmission of intelligence by
 11 electricity between points within this state;

12 which shall continue in force until such time as the municipality shall
 13 exercise its right to purchase, condemn, or otherwise acquire the
 14 property of such public utility, as provided in this chapter, or until it
 15 shall be otherwise terminated according to law.

16 **(j) A landlord, or a person acting on a landlord's behalf, that:**

17 **(1) distributes water or sewage disposal service from a public**
 18 **utility or a municipally owned utility to one (1) or more**
 19 **dwelling units;**

20 **(2) bills tenants, separately from rent, for:**

21 **(A) the water or sewage disposal service distributed; and**

22 **(B) any reasonably related administrative costs; and**

23 **(3) does not increase the public utility's or the municipally**
 24 **owned utility's charges for the water or sewage disposal**
 25 **service provided;**

26 **is not a public utility solely by reason of engaging in any activity**
 27 **described in subdivisions (1) through (3).**

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SENATE MOTION

Madam President: I move that Senator Long be removed as author of Senate Bill 93 and that Senator Riegsecker be substituted therefor.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 93, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Regulatory Affairs.

(Reference is to SB 93 as introduced.)

LONG, Chairperson

SENATE MOTION

Madam President: I move that Senator Hershman be added as second author of Senate Bill 93.

RIEGSECKER

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred Senate Bill No. 93, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, after "in" insert "**subsection (j) and**".

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Page 1, line 16, after "facilities" insert ".".

Page 1, line 16, delete "or a landlord or person acting".

Page 1, delete line 17.

Page 2, delete lines 1 through 3.

Page 3, after line 19, begin a new paragraph and insert:

"(j) A landlord, or a person acting on a landlord's behalf, that:

(1) distributes water or sewage disposal service from a public utility to one (1) or more dwelling units;

(2) bills tenants, separately from rent, for:

(A) the water or sewage disposal service distributed; and

(B) any reasonably related administrative costs; and

(3) does not increase the public utility's charges for the water or sewage disposal service provided;

is not a public utility solely by reason of engaging in any activity described in subdivisions (1) through (3)."

and when so amended that said bill do pass.

(Reference is to SB 93 as printed January 15, 2008.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 93 be amended to read as follows:

Page 3, line 18, after "utility" insert **"or a municipally owned utility"**.

Page 3, line 22, after "utility's" insert **"or the municipally owned utility's"**.

(Reference is to SB 93 as printed January 25, 2008.)

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